IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

Crl.MC.No. 58 of 2007()

CMP.8205/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TIRUR
CRIME NO. 283/96 OF KUTTIPPURAM POLICE STATION

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PETITIONER:

P.D.DAVID, S/O.DEVASSY,
PAYYAPPILLY HOUSE, UDYOGAMANDAL P.O.,
ELOOR SOUTH VILLAGE, ERNAKULAM DISTRICT
(OWNER OF TOYOTA INNOVA CAR BEARING REGISTRATION
NO.KL 42-3535).

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HONOURABLE HIGH COURT OF
KERALA, ERNAKULAM REPRESENTED BY CIRCLE
INSPECTOR OF POLICE, KUTTIPPURAM POLICE STATION.

BY PUBLIC PROSECUTORSRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 58 of 2007

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Dated this the 19th day of January, 2007

O R D E R

The petitioner claims to be the owner entitled to possession of a vehicle - Innova car - involved in Crime No.283 of 2006 of Kuttippuram police station. The vehicle was the vehicle in which the accused persons allegedly travelled to the scene of the crime to indulge in the offences alleged. The crime has been registered, inter alia, under Section 302 I.P.C. Investigation is in progress. The petitioner applied for release of the vehicle to him. By the impugned order, the learned Magistrate rejected the application holding that the vehicle is necessary for the purpose of investigation and cannot be released at this stage. Aggrieved by that order the petitioner has come to this Court.

2. The learned Prosecutor was directed to take instructions. A statement has been filed by the Investigating Officer and the said statement reveals that the vehicle had blood marks in it and it was necessary in these circumstances to send the vehicle to the Chemical

Laboratory, Trivandrum. Requisition has already been given. On 17.1.2007 the vehicle has been forwarded to the Chemical Laboratory, it is submitted at the Bar.

3. I am, in these circumstances, satisfied that the impugned order refusing the release of the vehicle at this stage does not suffer from any infirmity, which warrants invocation of the powers under Section 482 Cr.P.C.

4. In these circumstances this Crl.M.C. is dismissed, but with the specific observation that the petitioner shall be at liberty to make a fresh application for release of the vehicle once the investigational needs in respect of the vehicle are satisfied. The Investigating Officer and the learned Magistrate shall take all necessary steps to ensure that the requisite tests are done and the vehicle is obtained back from the Chemical Laboratory expeditiously.

5. There is a further submission that the vehicle number appears to be tampered and there is some alterations and disputes with respect to the identity of the vehicle. Needless to say, that question will also have to be

considered in detail by the learned Magistrate when a later application for release of the vehicle is considered.

(R. BASANT)
Judge

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